

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

OCT 1 2001

OFFICE OF
MANAGING DIRECTOR

Mr. Jonathan D. Blake
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

RE: Fee Refund Request, OnSat Network Communications, Inc.,
Fee Control Number 0102288160888813

Dear Mr. Blake:

This is in response to your letter dated June 18, 2001 that requested a "rebate of \$1,890, the excess fee paid" in connection with the application of OnSat Network Communications, Inc. (OnSat), for an earth station license in Salt Lake City, Utah.¹ For the below stated reasons, we cannot grant your request.

You base your request on the Commission's previous decision on OnSat's letter dated August 24, 2000. With that letter, OnSat submitted a fee of \$13,470 and a lead application for its network, which included a hub station, a satellite, and a single remote earth station. The operation entails a novel use of 3.7 meter and 4.5 meter dish antennas in C-Band spectrum, using technically identical remote earth stations to provide interactive and high speed broad band service. In that earlier request, OnSat specifically sought a waiver of that portion of the fee that applied to the anticipated large number of technically identical remote earth stations. In a letter dated April 16, 2001, the Managing Director informed counsel for OnSat that the Commission:

[Granted OnSat's] request for a fee waiver in the following manner. The fee you submitted, \$13,470, is accepted as a lead application fee. Your lead application for the OnSat network identifies the hub station, satellite, and a single remote earth station. Subject to an additional payment for each, you may submit as many as 700 modifications to your lead earth station license. For each additional remote earth station, the Commission waives the amount of the application fee for a new fixed earth station that is greater than the fee for a modification of an existing earth station license. At present, that fee is \$145.

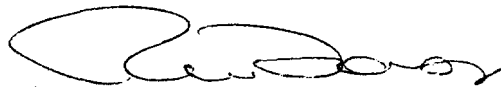
¹ Because the Commission does not have a process to rebate an application fee under these facts, we construed the letter as a request for a refund under 47 CFR § 1.1113(5), e.g., the "full amount of any fee submitted will be returned or refunded, as appropriate, under the authority granted at § 0.231 . . . when a waiver is granted in accordance with this subpart."

That waiver related to the application fee for each of the planned remote earth stations and permitted OnSat to pay the appropriate fee to obtain modification of an existing earth station license (\$145) rather than the then-applicable application fee for an "initial application" (which at the time was \$1,950). It bears emphasizing, however, that the fee waiver request, the lead application, and the modifications applied to the anticipated 700 earth station licenses. Presently, OnSat would like to apply the Commission's waiver determination to a different fee for an application changing the license for the hub earth station. In the situation described in the request, OnSat will change its operation of the hub station antenna from a shared use license held by Bonneville Holding Company (earth station E870502) to an individually owned antenna situated on the same mast. This change in hub station antennas was not included in the request to add the additional 700 earth stations.

Consequently, we find that the earlier decision and the instant request for a refund involve different earth station licenses. Because of the dissimilarity, the Managing Director's fee waiver decision dated April 16, 2001 was not intended to and did not apply to the request for a new hub station license. We also considered whether your request provided a basis to waive the fee under the authority Congress extended to the Commission to "waive or defer payment of any charge in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. §§158(d)(2) and (f), *see* 47 CFR § 1.1117. The Commission interprets the waiver and deferral provision narrowly and grants relief on only extraordinary and compelling circumstances. Applying that standard to your request, we find that the facts do not present a basis for a fee waiver.

If you have any questions concerning this letter, you may write me at the Commission or call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger", with a stylized flourish at the end.

for Mark A. Reger
Chief Financial Officer

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

010228816088813

OFFICE OF
MANAGING DIRECTOR

June 26, 2001

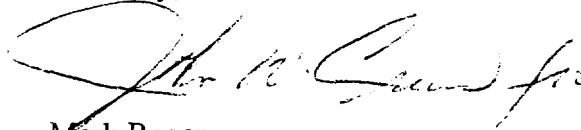
Jonathan D. Blake
Attorney for OnSat Network
Communications, Inc.
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

Dear Sir:

This letter is acknowledging receipt of your letter dated June 18, 2001, on behalf of OnSat Network Communications, Inc. Within 30 days of this letter we will mail you either a resolution to your item or a letter telling you when you can expect a resolution.

If you have any questions concerning this letter please call the Office of the Chief Financial Officer at (202) 418-1925.

Sincerely,



Mark Reger
Chief Financial Officer

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004-2401
TEL 202.662.6000
FAX 202.662.6291
WWW.COV.COM

WASHINGTON
NEW YORK
LONDON
BRUSSELS
SAN FRANCISCO

June 18, 2001

VIA FIRST CLASS MAIL

Andrew S. Fischel
Managing Director
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Fee Rebate Request, OnSat Network Communications, Inc.

Dear Mr. Fischel:

On February 28, 2001, OnSat Network Communications, Inc. ("OnSat") filed an application for an earth station license in Salt Lake City, Utah (File No. SES-LIC-20010228-00373). With it, OnSat filed an application fee of \$2,035, the standard filing fee for an earth station license. Pursuant to OnSat's Fee Waiver Request granted April 16, 2001 and pursuant to the arrangement with the International Bureau under which OnSat had filed a lead application fee of \$13,470, the filing fee for this application (which is part of OnSat's CSAT network) should have been \$145. However, in order to expedite the electronic filing of the Salt Lake City earth station license application, OnSat filed the full fee of \$2,035. Accordingly, Onsat requests a rebate of \$1,890, the excess fee paid.

Enclosed are a copy of the cover letter sent with the Salt Lake City earth station license application in which OnSat first raised this issue, and a copy of the grant of OnSat's Fee Waiver Request.

As the original payment was made by Covington & Burling, please send the rebate of \$1,890 to Covington & Burling at the address listed above (please address the letter to my attention).

Thank you in advance for your prompt attention to this matter. Please do not hesitate to contact me if you have any further questions.

COVINGTON & BURLING

Andrew S. Fischel

June 18, 2001

Page 2

Sincerely,

Jonathan D. Blake /DK

Jonathan D. Blake

Attorney for OnSat Network Communications, Inc.

Enclosure

cc Mr. Richard B. Engelman
Mr. Thomas Sullivan

COVINGTON & BURLING

1201 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004-2401
TEL 202.662.6000
FAX 202.662.6291
WWW.COV.COM

WASHINGTON
NEW YORK
LONDON
BRUSSELS
SAN FRANCISCO

February 28, 2001

VIA HAND DELIVERY

Ronald Repasi
Chief, Satellite Engineering Branch
International Bureau
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, DC 20554

**Re: OnSat Network Communications, Inc.
Application for Earth Station License
Salt Lake City, Utah**

Dear Mr. Repasi:

Pursuant to your request during our telephone conference call on January 31, 2001, OnSat Network Communications, Inc. ("OnSat") today filed the attached application for an earth station license in Salt Lake City, Utah, to operate as the hub station in OnSat's bi-directional C-Band satellite network. As you may recall, OnSat currently uses earth station E870502 as its hub station, which is licensed to Bonneville Holding Company ("Bonneville") and is located at 5 Triad Center in Salt Lake City, Utah. In the attached application, OnSat seeks its own license to operate a Vertex 3.8 meter antenna at the hub station.

Concurrent with the filing of OnSat's application, Bonneville will be filing its own application to modify its earth station license (call sign E870502) in order to utilize the same Vertex 3.8 meter antenna that OnSat will be using for the hub station. Per your instructions, OnSat's license application and Bonneville's modification application will result in the single Vertex 3.8 meter antenna at the hub station having two licensees and two call signs. This arrangement will eliminate the need for OnSat to use as its network hub a station licensed exclusively to a third party.

COVINGTON & BURLING

Ronald Repasi

February 28, 2001

Page 2

In order to file the attached application, OnSat submitted a filing fee in the amount of \$2035. OnSat requests that this fee be rebated by \$1890 in light of the fact that OnSat filed a heightened special filing fee of \$13,470 when it filed its initial earth station license application in Red Mesa, Arizona (call sign E000369). It is our understanding, based on our January 31st conference call, that the purpose of this special filing fee was to allow OnSat to make filings for additional network sites at the rate of \$145 per filing.

Please address any questions to the undersigned.

Sincerely yours,

A handwritten signature in black ink, reading "Faith D. Kasparian". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Faith D. Kasparian

Attorney for OnSat Network Communications, Inc.

cc: Donald Abelson
Ari Fitzgerald
Richard B. Engelman
Mark Young
George L. Sharp
Frank J. Peace
Thomas Tycz
Linda Haller

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

OFFICE OF
MANAGING DIRECTOR

April 16, 2001

Ellen P. Goodman
Covington & Burling
1201 Pennsylvania Avenue, NW
Washington, DC 20004-2401

RE: Fee Waiver Request, OnSat Network Communications, Inc.

Dear Ms. Goodman:

This is in response to your letter dated August 24, 2000 that submitted a fee of \$13,470 for a lead application, and requested a waiver of the fee currently applicable to remote earth stations. Specifically, you requested that the Commission waive the applicable fee for the anticipated 700 remote earth stations.

The Commission has discretion to "waive . . . payment of charges in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. §158(d)(2). We construe this waiver authority narrowly, and limit its application to only those situations where the applicant has made the requisite showing of good cause and demonstrated that the action would promote the public interest. We have considered the reasons set forth in support of your request and conclude that the request will be granted in support of the lead application submitted by OnSat Network Communications, Inc. Specifically, you note that the service involved entails a novel use of 3.7 meter and 4.5 meter dishes in C-Band spectrum, using technically identical remote earth stations to provide interactive and high speed broadband service to under-served populations in rural America and that the technical characteristics of the service are similar to a Ku-Band VSAT system. You further state that a fee waiver is consistent with the International Bureau's plan to process the remote site applications as modifications to the lead application, which will make the approval process faster and more efficient. Finally, you state that a reduction in fees could be very significant (700 remotes could otherwise cost over \$1.3 million in application fees).

We grant your request for a fee waiver in the following manner. The fee you submitted, \$13,470, is accepted as a lead application fee. Your lead application for the OnSat network identifies the hub station, satellite, and a single remote earth station. Subject to an additional payment for each, you may submit as many as 700 modifications to your lead earth station license. For each additional remote earth station, the Commission waives the amount of the application fee for a new fixed earth station that is greater than the fee for a modification of an existing earth station license. At present, that fee is \$145.

Ellen P. Goodman

If you have any questions concerning this letter, please call the Revenue and Receivable
Operation Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew S. Fishel". The signature is fluid and cursive, with the first name "Andrew" and last name "Fishel" clearly distinguishable.

Andrew S. Fishel
Managing Director

Payment Transactions Detail Report

Date: 06/29/2001

BY: FEE CONTROL NUMBER

Fee Control Number	Payor Name	Fcc Account Number	Payer TIN	Received Date							
0102288160888813	OnSat Network Communications, I 136 Heber Avenue Suite 204 P.O Box 800 Park City UT 84098	WP00034406	870618849	2/28/2001 10:49:0							
Payment Amount	Current Balance	Seq Num	Payment Type Code	Quantity	Callsign Other Id	Applicant Name	Applicant Zip	Bad Check	Detail Amount	Trans Code	Payment Type
\$2,035.00	\$2,035.00	1	BAX	1		OnSat Network Communications, Inc.	84098-		\$2,035.00	2	PMT
Total	1								\$2,035.00		

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554
SEP 28 2001

OFFICE OF
MANAGING DIRECTOR

Stephen R. Bell, Esquire
Jennifer D. McCarthy, Esquire
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, NW
Washington, D.C. 20036-3384

RE: Request for Fee Determination Concerning
Application for Blanket License to Deploy up to 3,000
Receive-Only Earth Stations, Fee Control Number
9911268160380003.

Dear Mr. Bell and Ms. McCarthy:

We reviewed your request dated November 24, 1999, on behalf of OrionNet, Inc. (OrionNet), that the Commission determine that the appropriate fee to be charged OrionNet in connection with its application to deploy up to 3,000 receive-only earth stations is comparable to the application fee for a blanket authorization for Fixed Satellite Very Small Aperture Terminal (VSAT) Systems and the Mobile Satellite Earth Stations (MSS). You included a check for \$7,200 with your request. We construe this as a request that the Commission waive the difference between the aggregate application fees for individual receive-only earth stations (\$885,000) and the application fee for a blanket authorization (\$7,200) or a waiver of \$877,800.

You believe that a waiver of the aggregate per-station fee is appropriate because the application fee schedule for 1999 did not address blanket authorizations for receive-only earth stations, and because the Commission's authorization for a blanket license for receive-only earth stations¹ and a subsequent fee decision resulted in a fee² equivalent to the fees for the VSAT and MSS blanket applications.

OrionNet seeks to deploy up to 3,000 receive-only earth stations,³ which under the application fee schedule for individual receive-only earth stations would require an aggregate fee of \$885,000. Believing that 3,000 separate applications would be burdensome to both OrionNet and the Commission, you suggest that a blanket application is appropriate and that the "Commission staff will expend less resources and will be able to more efficiently process [the application] because the multiple earth stations [are] technically identical."

¹ *In re Televisa International, LLC, Application for Blanket License for Receive-Only Earth Stations in the Fixed Satellite Service for Direct-to-Home Subscription Television Service*, Order and Authorization, 13 FCC Rcd 10074 (1997) (*Televisa International*).

² Letter from Marilyn McDermott to Norman Leventhal and David S. Keir, Re: Fee Control # 9612188160147001, dated February 26, 1997 (*Grupo Televisa Fee*).

³ See FCC File Number SES-LIC-19991124-02095, granted 06/29/2000.

You assert that although the Commission's fee schedule does not provide for blanket licensing of receive-only earth stations, the Commission nonetheless contemplated the issuance of blanket licenses, and as an interim measure has applied the fee schedule for VSAT and MSS systems in situations you believe are factually similar to OrionNet's proposal. You rely on the Commission's Order and Authorization permitting *Televisa International, LLC* to operate one million receive-only earth stations to receive Direct-to-Home Fixed Satellite Service (DTH-FSS) television services, and the Commission's decision to specify the blanket application fee. Finally, you state that because OrionNet will use a foreign satellite licensed by Mexico, its request is factually similar to applications by Televisa and TelQuest Satellite Services, LLC.

Congress permitted the Commission to "waive or defer payment of any charge in any specific instance for good cause shown, where such action would promote the public interest." 47 U.S.C. §§158(d)(2) and (f), *see* 47 CFR § 1.1117. The Commission interprets the waiver and deferral provision narrowly and grants relief on only extraordinary and compelling circumstances.

The Commission has previously noted the special circumstances among earth station licenses to receive satellite transmissions, including the processing extended to large numbers of "technically identical small antenna earth station facilities."⁴ Based on the authorization extended under License SES-LIC-19991124-02095, and the circumstances set forth above, we find that OrionNet's plan comports with the Commission's expressed intent in the DISCO II decision.⁵ As in that situation, Commission staff will expend less resources and will be able to more efficiently process OrionNet's application because the multiple earth stations will be technically identical. Consequently, we find that you have shown that the public interest is served in permitting a blanket application and waiving the fees that would have been required to accompany 3,000 separate license requests.

⁴ *See Report and Order, Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985*, 2 FCC Rcd 947 (1987), ¶¶ 245-248.

⁵ *Report and Order, Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States*, 12 FCC Rcd 24094 (1997), ¶¶ 201-204 (*e.g.*, "To impose the least burdensome requirements possible while fulfilling our regulatory responsibilities, we will permit applicants to request 'blanket' licenses for large numbers of technically identical receive-only antennas, such as home 'dishes.' Blanket applications may be filed by the space station operator, the service supplier, the equipment manufacturer, or the electronics retailer. Further in cases where we have previously granted a particular satellite access to the United States to provide DTH/DBS or other receive-only services, we will allow the earth station applicant to include an exhibit citing to the previous Commission grant of access for that satellite and stating that it intends to use the satellite to provide the same services as those previously authorized.")


Stephen R. Bell, Esq. & Jennifer D. McCarthy, Esq.

3.

Your request is granted and the Commission accepts your check of \$7,200. If you have any questions concerning this letter, you may write me at the Commission or call the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a large, stylized initial 'M'.

 Mark A. Reger
Chief Financial Officer

WILLKIE FARR & GALLAGHER

November 24, 1999

Andrew S. Fishel
 Managing Director
 Office of the Managing Director
 Federal Communications Commission
 445 12th Street, S.W.
 Washington, D.C. 20554

RECEIVED

NOV 24 1999

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Re: Request for Fee Determination Concerning Application for Blanket License to Deploy up to 3,000 Receive-Only Earth Stations

Dear Mr. Fishel:

This letter is submitted on behalf of OrionNet, Inc. ("OrionNet") in conjunction with its application for a blanket authorization to deploy up to 3,000 receive only earth stations in the U.S. Currently, the Commission's fee schedule does not provide for blanket licensing of receive only earth stations. In light of the absence of an appropriate fee category, the Commission has previously issued a fee determination requiring an applicant seeking a blanket license for multiple receive only earth stations to submit the fee required of applicants seeking blanket authorizations for Mobile Satellite Service ("MSS") and VSAT systems.¹ Consistent with this precedent, OrionNet has concurrently submitted its application with a check in the amount of \$7,200 - - the current fee for blanket authorization for MSS and VSAT systems.

OrionNet's request for a blanket authorization for multiple receive only earth stations is consistent with the Commission's DISCO II decision.² There, the Commission expressly contemplated the issuance of blanket authorizations for technically identical receive-only earth stations and stated that it would permit applicants seeking to access non-U.S. satellites to request blanket licenses for receive only antennas in order to "impose the least burdensome requirements possible."³ In 1996, Televisa International, LLC filed an application to operate one million receive-only earth stations using the Solidaridad II satellite

¹ See Letter from Marilyn McDermott to Norman Leventhal and David S. Keir, dated February 26, 1997 ("Televisa Fee Determination").

² In re Amendment of the Commission's Regulatory Policies to Allow Non-U.S. Licensed Space Stations to Provide Domestic and International Satellite Service in the United States, Report and Order, 12 FCC Rcd. 24094 (1997).

³ Id. at ¶ 204.

Washington, DC
 New York
 Paris
 London

licensed by Mexico and included a fee determination request with its application.⁴ The Commission concluded that the appropriate fee should be the fee required for applications for blanket authorizations in the MSS and VSAT services since, as with MSS and VSAT applications, "the Commission staff will expend less resources and will be able to more efficiently process Televisa's application because the multiple earth stations will be technically identical."⁵ Recently, Telquest Satellite Services, LLC ("Telquest") filed an application for up to one million receive only earth stations using the SatMex V satellite. Pursuant to the *Televisa Fee Determination*, Telquest included the \$7,200 fee with its application.

Similar to both the Televisa and Telquest cases, OrionNet is proposing to utilize a foreign satellite licensed by Mexico to provide service to up to three thousand receive-only earth stations. Grant of OrionNet's request is consistent with the FSS Protocol agreed to by Mexico and the United States, which specifically contemplates blanket licensing for earth stations.⁶ However, as noted by Televisa and Telquest, the Commission's fee guide has not kept pace with the Commission's policies. Rather than submitting no fee or the per station fee of \$295, resulting in a total fee of \$885,000.00,⁷ OrionNet has filed the \$7,200 fee to cover the Commission's application processing costs, consistent with the *Televisa Fee Determination*, with the expectation that the International Bureau may process OrionNet's application while the Office of the Managing Director processes the instant request for a fee determination.⁸

⁴ In re Application of Televisa International, LLC. for Blanket License of Receive-Only Earth Stations, Order and Authorization, 13 FCC Rcd. 10074 (1997).

⁵ Televisa Fee Determination at 2.

⁶ See "Protocol Concerning the Transmission and Reception of Signals from Satellites for the Provision of Fixed-Satellite Services in the United States of America and the United Mexican States" at Article V, section 1 (signed Oct. 16, 1997).

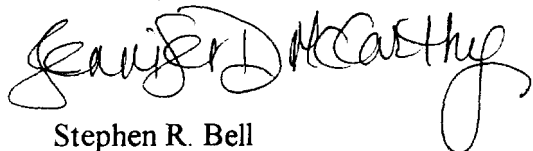
⁷ This fee "would bear scant, if any, relation to the Commission's cost of processing [OrionNet's] application." Televisa Fee Determination at 1. If required, and for the reasons set forth herein, OrionNet requests a waiver of the \$885,000.00 fee requirement for individual stations. Id. at 2.

⁸ In the Televisa Fee Determination, the Commission stated that if, prospectively, Congress sets a fee for blanket license receive only earth stations, and that fee is greater than that for VSAT and MSS systems, Televisa would be required to pay the balance. If the fee was less than that for VSAT and MSS systems, Televisa would be entitled to a partial refund. OrionNet would accept such a condition. Id.

Therefore, OrionNet requests that the Office of the Managing Director determine that OrionNet's blanket license receive only earth station application is acceptable for filing based upon its payment of \$7,200.

Should you have any questions, please contact the undersigned.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer D. McCarthy". The signature is fluid and cursive, with the first name "Jennifer" written in a larger, more prominent script than the last name "McCarthy".

Stephen R. Bell
Jennifer D. McCarthy

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 6 2001

OFFICE OF
MANAGING DIRECTOR

Dan J. Alpert
Counsel for Pittman Broadcasting
Services, Inc.
2120 N. 21st Road
Suite 400
Arlington, Virginia 22201

RE: Request for Waiver of
FY 2001 Regulatory Fees
Fee Control No. 00000RROG-01-040

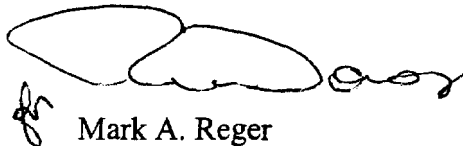
Dear Mr. Alpert:

This is in response to the request for waiver of the Fiscal Year (FY) 2001 regulatory fees, in the amount of \$725.00, filed on behalf of Pittman Broadcasting Services, Inc., licensee of Station KAOK-AM, Lake Charles, Louisiana.

You state that the station was not operating when the regulatory fee was due and that waiver of the fee is appropriate. The Commission's records confirm that Station KAOK-AM went dark on February 11, 2001 and that it has not resumed operations. In *Implementation of Section 9 of the Communications Act*, 10 FCC Rcd 12759, 12762 ¶ 15 (1995), the Commission determined that the imposition of a regulatory fee could be an impediment to the restoration of service by a dark station and that it would, therefore, waive the fee requirement for stations which have ceased operations. Thus, because KAOK-AM was dark when payment of the regulatory fee for FY 2001 was due, your request for waiver of the FY 2001 regulatory fees will be granted.

If you have any questions concerning this letter, please call the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', with a stylized flourish at the end.

Mark A. Reger
Chief Financial Officer

RECEIVED

SEP 21 2001

The Law Office of
Dan J. Alpert

2120 N. 21st Rd.
Suite 400
Arlington, VA 22201

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

(703) 243-8690

(703) 243-8692 (FAX)

September 21, 2001

Mr. Andrew S. Fishel
Managing Director
Federal Communications Commission
445 12th St. S.W..
Washington, DC 20554

WF9

ACCOUNT PROCESSING
GROUP-DPT/RPT/TMT

2001 SEP 21 P 3:26

RECEIVED
FCC

Re: Stations KAOK(AM)
Facility No. 67330
Lake Charles, LA

Dear Mr. Fishel:

Pittman Broadcasting Services, Inc., by its attorney, hereby requests a waiver of its 2001 Annual Regulatory Fee. In support thereof, the following is stated.

In the Memorandum Opinion and Order issued with respect to Implementation of Section 9 of the Communications Act, FCC 95-257 (June 22, 1995), the FCC recognized that waivers of the annual Regulatory Fee was appropriate in certain instances, and specifically determined that it would grant waivers to licensees of broadcast stations which are dark (not operating). The Commission recognized that an imposition of regulatory fees could be an impediment to the restoration of broadcast service, and that such it would be unnecessary for such stations to make any further showing to warrant grant of a waiver. Id. at ¶ 15.

Pittman Broadcasting Services, Inc. is licensee of Station KAOK(AM), Lake Charles, Louisiana. The station currently is dark. Attachment 1. Accordingly, a waiver of the 2001 Annual Regulatory Fee is appropriate.

WHEREFORE, it respectfully is requested that this request be granted.

Very truly yours,

Dan J. Alpert

Counsel for Pittman Broadcasting Services,
Inc.

2001-09-21-040

ATTACHMENT 1

The Law Office of

Dan J. Alpert

2120 N. 21st Rd.
Arlington, VA 22201

(703) 243-8690

(703) 243-8692 (fax)

June 14, 2001

RECEIVED

JUN 18 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th St., S.W.
Washington, DC 20554

**Re: Station KAOK(AM)
Facility No. 67330
Lake Charles, LA**

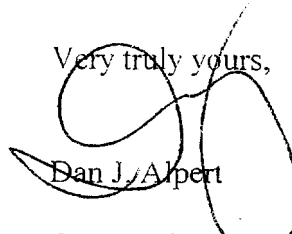
Dear Ms. Salas:

Pittman Broadcasting Services, LLC, by its attorney, hereby requests consent to remain silent. With respect thereto, the following is stated:

Station KAOK(AM), Lake Charles, Louisiana, is currently off the air, due to fire that destroyed the studios and transmitter for the station on February 11, 2001. Attempts to restore service have been delayed due to difficulties receiving funding from applicable insurance companies. Nevertheless efforts continue to be made to restore service expeditiously.

If there are any questions, please contact this office.

Very truly yours,



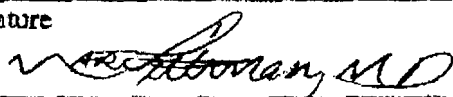
Dan J. Alpert

Counsel for Pittman Broadcasting
Services, L.L.C.

CERTIFICATION

The applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits that includes FCC benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862 or, in the case of a non-individual applicant (e.g., corporation, partnership or other incorporated association), no party to the applicant is subject to a denial of federal benefits that includes FCC benefits pursuant to that section.

☒ Yes ☐ No

Applicant	Date
Pittman Broadcasting Services, LLC	June 13, 2001
Signature	Title
	Member

**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D. C. 20554**

**IN REPLY REFER TO:
1800B3-ALM**

March 21, 2001

Dan J. Alpert, Esquire
2120 North 21st Road
Arlington, Virginia 22201

In re: KAOK(AM), Lake Charles, LA
Facility ID No. 67330
Silent Since February 11, 2001
Request for Special Temporary
Authority To Remain Silent

Dear Mr. Alpert:

This letter concerns your request, filed on March 20, 2001, on behalf of Pittman Broadcasting Services, LLC, for Special Temporary Authority to permit AM Station KAOK to remain silent.

Your request states that on February 11, 2001, a fire destroyed the station's studios and transmitter and that attempts are being made to restore service expeditiously. Your request includes the appropriate certification regarding Section 5301 of the Anti-Drug Abuse Act of 1988.¹

Your request will be granted. Accordingly, special temporary authority is granted to permit AM Station KAOK to remain silent for a period not to exceed ninety days from the date of this letter. **Notwithstanding the grant of this special temporary authority, the broadcast license for KAOK(AM) will automatically expire as a matter of law if broadcast operations do not commence by 12:01 a.m. February 12, 2002.**² See Pub. L. No. 104-104, 110 Stat. 56, § 403(1) (1996).


¹In the event extension of special temporary authority is sought, please renew the certification in this matter.

²Notification of resumption of broadcast operations must be mailed to:

Federal Communications Commission
Attn: 1800B3-ALM, Room 2-B450
445 12th Street, S.W.
Washington, D.C. 20554

The station's silent status does not suspend the licensee's obligation to comply with all other relevant Commission rules, including the filing, when appropriate, of applications for renewal of broadcast license.

Sincerely,


Linda Blair, Chief
Audio Services Division
Mass Media Bureau

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

August 28, 2001

OFFICE OF
MANAGING DIRECTOR

Larry G. Fuss, President
South Seas Broadcasting, Inc.
Post Office Box 6758
Pago Pago, AS 96799

Re: Request for Waiver and Refund of
FY 2000 Regulatory Fees
Fee Control No. 009228835414004

Dear Mr. Fuss:

This letter responds to your petition for reconsideration of the April 12, 2001 denial of your earlier request for a waiver and return of regulatory fees for Fiscal Year (FY) 2000 filed by South Seas Broadcasting, Inc., licensee of WNUV(AM), Leone, American Samoa.

Your petition states that the April 12 letter construed your request as asserting that the former owner of the station was responsible for payment of the regulatory fee. In fact, you assert that your waiver request was founded on the fact that the station was off the air for much of 1999 due to fire damage to the main studio and transmitter facility. You contend that the additional burden of having to pay regulatory fees for a station that incurred such a catastrophic loss, makes it more difficult to return the station to normal operation. Essentially, you argue that the Commission should have waived South Seas' regulatory fees on grounds of financial hardship.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." See Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994); recon. granted, 10 FCC Rcd 12759 (1995). The Commission further held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

10 FCC Rcd at 12761-62.

In determining whether a regulatee has sufficient revenues to pay its regulatory fees, the Commission relies upon cash flow, as opposed to the entity's profits. Thus, although deductions for amortization and depreciation, which do not affect cash flow, and payments to principals, reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

In the absence of appropriate documentation, which notwithstanding your contentions has not been presented, you have failed to establish a compelling case of financial hardship. Therefore, your petition for reconsideration of the denial of your request for waiver and refund of South Seas' FY 2000 regulatory fee is denied. In view of your allegations of financial hardship, however, in lieu of payment, South Seas' request may be refiled together with appropriate supporting documentation within 30 days from the date of this letter.

If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Reger', with a stylized flourish at the end.

for Mark Reger
Chief Financial Officer